IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 5556 OF 2006
(Bhaskar Sakharam Mahajan .v. Ramchandra Sakharam Mahajan and others)

| Office Notes, Office Memoranda of Coram appearances, Court's orders or directions and Registrar's orders. | Court's or Judge's Orders |
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Shri A.M. Ghare, Advocate for the petitioner.
Shri A.S. Jaiswal, Advocate for the respondent No.1.

CORAM : R.V. MORE, J.
3RD DECEMBER, 2007

Heard the learned Counsel appearing on behalf of the respective parties.

The petitioner, by filing the present petition under Article 226 and 227 of the Constitution of India, takes exception to the order dated 27.03.2006 passed by the 17th Joint Civil Judge, Junior Division and JMFC, Court No.8, Nagpur below Exh.212 in Regular Civil Suit No. 330/1992. The respondent No.1/original defendant No.1 filed an application at Exh.212 for grant of permission to lead secondary evidence to prove building plan. The case of the respondent No.1 is that the original building plan is in the custody of the Corporation and the office copy thereof being lost, in the peculiar circumstances and in the interest of justice permission to adduce secondary evidence be granted.

Shri A.M. Ghare, the learned Counsel for the petitioner however, submitted that the case of the respondent No.1/original defendant No.2 is not covered under Clause (a) of Section 65 of the Indian Evidence Act, 1872 and, therefore, he may not be permitted to lead secondary evidence.

In my opinion, the case of the respondent No. 1/original defendant No.1 is covered under Clause (e) of Section 65 of the Indian Evidence Act and, therefore, the learned trial Court has correctly granted permission to lead secondary evidence. No prejudice shown to have been caused to the petitioner. The petitioner could not point out any jurisdictional error, which requires interference in my jurisdiction under Article 227 of the Constitution of India.

The petition is, therefore, devoid of merit and the same is dismissed accordingly.

JUDGE

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